

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

BABY DOE, <i>et al.</i>)	
)	
<i>Plaintiffs,</i>)	
)	
v.)	Case No. 3:22-cv-49-NKM
)	
JOSHUA MAST, <i>et al.</i>)	
)	
<i>Defendants,</i>)	
)	
and)	
)	
UNITED STATES SECRETARY OF)	
STATE ANTONY BLINKEN, <i>et al.</i> ,)	
)	
<i>Nominal Defendants.</i>)	
)	

DEFENDANT RICHARD MAST’S NOTICE OF SUPPLEMENTAL AUTHORITY

The entirety of Plaintiffs’ case before this Court is based upon the false claim that Jane and John Doe are legal guardians of Baby Doe (*see* Am. Compl. at 12 [Dkt. No. 68]). Without some legitimate claim to such status, Plaintiffs lack standing to raise the tortious claims they now make insofar as they are all predicated upon some duty of care owed to legal guardians or parents. As noted by Defendant Richard Mast (and, indeed, by the other Defendants as well), currently pending before the Virginia courts is the very question of John and Jane Doe’s status as legal guardians, which is why Defendants asked this Court, in the alternative and *inter alia*, to abstain and to stay these proceedings until that fundamental question was resolved by the Virginia state courts (*see, e.g.*, Def. R. Mast’s Mot. to Dismiss at 8-9 [Dkt. No. 53.]; Defs. J. and S. Mast’s Mot. to Dismiss at 15-20 [Dkt. 51]).

On June 2, 2023, the Virginia Supreme Court reversed an earlier decision by the Virginia Court of Appeals and ordered the lower appellate court to take jurisdiction of, and to

hear by consolidation, the two pending interlocutory appeals: the first appeal relating to the statutory bar that precludes collaterally attacking an adoption order after the prescribed time and the second appeal challenging, *inter alia*, the Circuit Court's recent interlocutory ruling on summary judgment concluding that, while Jane and John Doe lacked any *de jure* status as legal guardians of Baby Doe, they have some kind of *de facto* status. Thus, the fundamental question whether John and Jane Doe have standing as legal guardians to even attempt to avoid the statutory bar and/or to challenge the adoption, much less raise the claims they have made in this Court, are all pending and ripe to be heard in the Virginia Court of Appeals, which in turn follows lengthy evidentiary hearings and live testimony at the circuit court level.

Thus, in support of Defendant Richard Mast's motion asking this Court to abstain from hearing this matter, at least until the outcome of the state court proceedings are concluded and final, we provide the Court with the following supplemental authorities:

- Exhibit 1: The Virginia Supreme Court's order (1) reversing the Court of Appeals' earlier decision that it lacked jurisdiction over interlocutory appeals and (2) ordering the Court of Appeals to take up and consolidate both pending appeals.
- Exhibit 2: The Virginia Court of Appeals' earlier decision regarding its lack of jurisdiction to hear the appeal referenced above.
- Exhibit 3: The supplemental authority filed by Joshua and Stephanie Mast with the Virginia Supreme Court setting out the legislative declaration making clear that the Court of Appeals was vested with jurisdiction to hear interlocutory appeals (thus, both the appeal regarding the proper application of

the statutory bar and the most recent appeal regarding summary judgment.

Dated: June 5, 2023

Respectfully submitted,

/s/ David Yerushalmi

David Yerushalmi, Esq.*

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CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of June, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing to all CM/ECF participants.

By: /s/ David Yerushalmi
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